UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,181	03/05/2002	Subodh A. Samuel	14012-084001/82-04-009	7558

26230 7590 02/22/2007
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
TRUONG, LAN DAI T	
ART UNIT	PAPER NUMBER
2152	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/092,181
Filing Date: March 05, 2002
Appellant(s): SAMUEL ET AL.

Subodh A. Smuel
Raji Abraham
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/13/2006 appealing from the Office action mailed 05/12/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6493341	Datta et al.	12/1999
5857072	Crowle	04/1996
6907011	Miller et al.	03/1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim rejections-35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, 6, 8 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kovarik et al. (U.S. 7,020,717), "Kovarik", herein after

Regarding claim 1:

Kovarik discloses a method, which can be implemented in a computer hardware or software code for distributing software, comprising:

Distributing a message from an application server to one or more application layer routers through one or more first channels selected from a first channel layer, wherein the message is distributed to one or more application routers in response to at least one or more application layer routers registering with the application server to receive messages in

accordance with configuration data of one or more endpoints: (Kovarik discloses a message distribution system including "message publisher" which shares functionality with "application server" as claimed which distributes messages to "message adapters" those are equivalent to "endpoints" as claimed through message routers. The Kovarik' message distribution system further includes a message topic server which contains list of registered message topics configured from message registered subscribers/message adapters, a list of data publishers able to publish data messages consonant with registered message topics, and also a list of registered message routers so that the registered message router can route messages from message publisher to registered message subscribers/message adapters based on registered message topics: figure 1, items 100, 115, 110; abstract, lines 1-2; column 2, lines 22-54, lines 58-67; column 5, lines 13-54; column 10, lines 1-7; column 6, lines 13-20, lines 54-67; column 5, lines 45-54). In Kovarik's system, message topics are registered with the message topic server from the registered message subscribers/ messsage adapters through the registered message routers, see (column 6, lines 54-67; column 5, lines 25-54; column 7, lines 10-37; column 8, lines 36-60); Kovarik further discloses step of selecting from the message topic server a suitable registered message router from a list of registered message routers for transmitting messages from the message publisher to desired registered message adapter; wherein the communication links between publisher and message routers shares functionality with "first channel" as claimed: (column 10, lines 26-38, lines 58-67; column 11, lines 1-2, lines 23-25, lines 44-52; column 7, lines 29-40; column 6, lines 20-21; column 7, lines 52-64; figure 1, items 125, 115 and 105; abstract, lines 1-2; column 2, lines 22-67; column 5, lines 13-54)

Distributing the message from the one or more application routers to the one or more endpoints through one or more second channels selected from a second channel layer, wherein the message is distributed to one or more endpoints in response to at least one or more endpoints registering with the one or more application routers to receive messages in accordance with the configuration data of one or more endpoints: (Kovarik discloses "consumers" those are also equivalent to "endpoints" as claimed transmit subscriberTopic messages to registered message routers in order to register subscriberTopic messages: figure 1, items 125, 115 and 105; column 11, lines 1-67; column 5, lines 49-54; column 6, lines 54-67; column 7, lines 10-67; column 9. lines 9-25); The message topic server allocates a suitable registered router for transmitting messages from data publisher to registered message subscribers/message adapters based on registered message topic; the selected registered message router then deliveries the messages to respective registered subscriber based upon received subscriberTopic message from the registered subscriber: (column 7, lines 10-67; column 9. lines 9-25); wherein the communication links between the registered message router to registered message subscriber/ message adapter shares functionality with "second channel": (Kovarik: figure 1, items 125, 115 and 105; abstract, lines 1-2; column 2, lines 22-67; column 5, lines 13-54; column 10, lines 1-7)

Regarding claim 2:

Kovarik discloses a method as discuss in claim 1, which further includes distributing the message to one or more second application layer routers through one or more second channels selected from a second layer: (Kovarik discloses the message is delivered to consumers through two inter-processed communication link message routers: abstract, lines 1-12)

Distributing the message to the endpoint through one or more third channel selected from a third channel layer: (Kovarik discloses the registered message router transmits the message to registered consumers based upon registered subscriberTopic message: (column 5, lines 49-54; column 7, lines 10-67)

Regarding claim 3:

Kovarik discloses a method as discuss in claim 1, which further includes wherein the first channel and the second channel are selected by the application server: (Kovarik discloses upon receiving subscriberTopic message from the registered message router, the message topic server searches to find a suitable registered message router from the list of registered message routers those have registered message topics in the message topic server: column 10, lines 17-38)

Regarding claim 6:

Kovarik discloses a method as discuss in claim 1, which further includes distributing storing the message at the selected application layer router; and distributing the message to the endpoint through one or more second channels selected from the second channel layer after the occurrence of a predetermined event: (Kovarik discloses method for selecting a suitable registered message router for transmitting message from data publisher to application adapter in according to registered message topic; although Kovarik does not explicitly disclose step of "storing" transmitting message at the registered message router; but it would have been obvious to a person of ordinary skill in the art to know that the g message should be at least stored/saved/cached temporarily in the registered message router prior processing of transmitting message from the message publisher to the registered message subscriber/application adapter: figure 1, items 125, 113, 110; abstract; column 2, lines 27-67; column 3, lines 18-31; column 4,

lines 37-45; column 6, lines 25-31, 54-67). In the Kovarik's system, the data publisher distributes messages to the selected registered message router for further transmitting message to desired registered message subscribers/application adapter based upon matching between request message with "registered message topic" which shares functionality with "predetermined event": (column 2, lines 21-67; column 10, lines 17-38)

Regarding claim 8:

Kovarik discloses a method as discuss in claim 1, which further includes determining a sequence from the message prior to distributing the message from the application server to one or more application router: (Kovarik discloses the message is transmitted to registered message routers prior sending to registered message consumers: column 11, lines 1-67; column 5, lines 49-54; column 6, lines 54-67; column 7, lines 10-67; column 9. lines 9-25)

Regarding claim 11:

Kovarik discloses a system, which can be implemented in a computer hardware or software code for distributing software, comprising:

The message is distributed to the first application router in response to at least the application layer router registering with application server to receive messages in accordance with configuration data of at least a first endpoint: (Kovarik discloses "the message router" which is equivalent to "application router" is a service application which can service application service requests to transmit and receive data message to/from messages publishers/ and registered consumers/message adapteres. Kovarik also discloses network message traffic and network configuration which supports associations between three network components such as "message router" which is equivalent to "application router", "message publisher" which is

equivalent to "application server" and "message consumers/message adapters" those are equivalent to "endpoints" upon on registered subscriberTopic messages; wherein consumers transmit subscriberTopic messages to message routers in order to register message topics to the message topic server; the message router then registers the subscriberTopic message to message topic server for delivering: column 5, lines 49-54; column 6, lines 54-67; column 7, lines 10-67; column 9, lines 9-25)

The message is distributed to the second application router in response to at least the second application layer router registering with application server to receive message accordance with configuration data of at least a second endpoint: (Kovarik discloses the message topic server maintains a state table includes list of "registered message routers" which is equivalent to "the first and the second router." The message topic server can also associate the message router with the subscriberTopic message in order to choose a suitable message router for routing message to respective consumer: column 5, lines 49-54; column 6, lines 54-67; column 7, lines 10-67; column 9, lines 9-25)

An applicant server transmitting a message that includes a first channel selected from a first channel layer and a second channel selected from a second channel layer: (Kovarik discloses step of selecting from the message topic server a suitable registered message router from a list of registered message routers for distributing message to the message adapter in accordance with registered message topic: column 10, lines 26-38, lines 58-67; column 11, lines 1-2, lines 23-25, lines 44-52; column 7, lines 29-40; column 6, lines 20-21; column 7, lines 52-64)

The second endpoint receiving the message from the second channel layer: (Kovarik discloses the registered message router as intermediary agent for routing a message to desired

registered message consumer: column 5, lines 49-54; column 6, lines 54-67; column 7, lines 10-67; column 9, lines 9-25)

Claim rejections-35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4-5, 7, 9-10 and 12 are rejected under 35 U.S.C 103(a) as being un-patentable over Kovarik and in view of Datta et al. (U.S. 6,493,341)

Regarding claim 5:

Kovarik discloses the invention substantially as disclosed in claim 1, but does not explicitly teach wherein the first channel and the second channel are selected by the application server based on the available data processing capacity of the selected application layer router.

In analogous art, Datta discloses a high-speed interconnections communication system for delivering data between two or more sites; wherein multiple software routers are used to provide multiple links between two or more sites. The high-speed interconnections communication system including a controller software which selects the router has ighest available bandwidth to delivery message, see (column 15, lines 54-67; column 16, lines 19-24; column 4, lines 41-67; column 5, lines 1-8, lines 19-21; column 8, lines 31-44).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Datta's ideas of choosing the router has highest bandwidth with Kovarik's systems in order to provide high-speed interconnection communication system, see (Datta: column 4, lines 4-14).

Regarding claim 4:

Kovarik discloses the invention substantially as disclosed in claim 1, but does not explicitly teach wherein the predetermined event is one or more of the group comprising receipt of a bandwidth availability message, and receipt of a processor capacity availability message.

In analogous art, Datta discloses the controller software selects the routers have highest available bandwidth to delivery message, see (column 15, lines 54-67; column 16, lines 19-24; column 4, lines 41-67; column 5, lines 1-8, lines 19-21; column 8, lines 31-44).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Datta's ideas of choosing the router has highest bandwidth with Kovarik's systems in order to provide high-speed interconnection communication system, see (Datta: column 4, lines 4-14).

Regarding claim 10:

Kovarik discloses the invention substantially as disclosed in claim 1, but does not explicitly teach using a gateway to transmitting response to a destination system

In analogous art, Datta discloses controller software has functionality as a gateway which manages communications among routers and a network: (column 15, lines 54-67; column 16, lines 19-24; column 4, lines 41-67; column 5, lines 1-8, lines 19-21; column 8, lines 31-44).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Datta's ideas of using controller software has functionality as a gateway to manage communications among routers and a network with Kovarik's systems in order to provide efficiencies for communication system such as providing load balancing, high-speed interconnection communication system, see (Datta: column 4, lines 4-14).

Regarding claim 7:

Kovarik discloses the invention substantially as disclosed in claim 6, and further including the receipt of an event occurrence message: (Kovarik discloses the message distribution system therefrom messages are distributed to application adapter when the message topic server determines if request message is at least one of "registered message topics" which shares functionality with "an event occurrence:" column 2, lines 25-67); However Kovarik does disclose an expiration of timer, the receipt of a bandwidth availability message, and the receipt of a processor capacity availability message

In analogous art, Datta discloses packet synchronization protocol communication system involving with time-out conditions, see (column 2, lines 46-56); the Datta further discloses the controller software which manages communication links of a group of routers. In order to select a suitable router from group of routers, the controller' decision is made based on the following factors e.g. router loads/ processor capacity/ and load balancing: (column 15, lines 54-67; column 16, lines 19-24; column 4, lines 41-67; column 5, lines 1-8, lines 19-21; column 8, lines 31-44)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Datta's ideas of choosing the router has highest bandwidth with

Kovarik's systems in order to provide efficiencies for communication system such as providing load balancing, high-speed interconnection communication system, see (Datta: column 4, lines 4-14).

Regarding claim 9:

Kovarik discloses the invention substantially as disclosed in claim 8, but does not explicitly teach wherein determining the sequence comprises determining the sequence base on one or more of the group comprising data communications bandwidth availability between the application server and the endpoint, processing capacity of one or more of the application layer routers, processing capacity of a gateway receiving messages from the endpoint and the application server, and data communications bandwidth availability between the endpoint and the gateway.

In analogous art, Datta discloses the router which services as the default gateway also maintains a table of routes for different destination address; selecting shortest paths where the path is represented as list of routers through them the data is reach to destination; The controller software included in the Datta's system selects the router has highest available bandwidth to delivery message, see (Datta: column 4, lines 1-67; column 2, lines 34-40; column 17, lines 1-27)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Datta's ideas of choosing the router has highest bandwidth with Kovarik's systems in order to provide efficiencies for communication system such as providing load balancing, high-speed interconnection communication system, see (Datta: column 4, lines 4-14).

Regarding claim 12:

Kovarik discloses the invention substantially as disclosed in claim 11, but does not explicitly teach wherein the application server further comprises a bandwidth allocation system transmitting the message.

In analogous art, Datta discloses the controller software selects the router has highest available bandwidth to delivery message, see (column 15, lines 54-67; column 16, lines 19-24; column 4, lines 41-67; column 5, lines 1-8, lines 19-21; column 8, lines 31-44).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Datta's ideas of choosing the router has highest bandwidth with Kovarik's systems in order to provide efficiencies for communication system such as providing load balancing, high-speed interconnection communication system, see (Datta: column 4, lines 4-14).

Claims 13-14, 16-17 are rejected under 35 U.S.C 103(a) as being un-patentable over Kovarik in view of Crowle (U.S. 5,857,072)

Regarding claim 14:

Kovarik discloses the invention substantially as disclosed in claim 11, but does not explicitly teach storing the message prior to transmitting the message over the first channel

In analogous art, Crowle discloses "master server" which is equivalent to "controller" which stores and distributes the "data" which is equivalent to "message" to sub-servers: (column 10, lines 29-42).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Crowle's ideas of distributing files from a master server to an end user through "routers" which is equivalent to "first channels," and "bridges" which is equivalent to "second channel" with Kovarik's system in order to provide higher transfer rate communication system, see (Kovarik: column 3, line 14).

Regarding claim 16:

In addition to rejection in claim 14, Kovarik-Crowle further discloses wherein the router controller further comprises an event base message system storing the message until the occurrence of a predetermined event: (Kovarik disclose the router receives and sends a message from a publisher to subscribers according to registered message topics: column 5, lines 49-54)

Regarding claim 13:

Kovarik discloses the invention substantially as disclosed in claim 11, but does not explicitly teach wherein the application server further comprises an event based sequencing system transmitting the message

In analogous art, Crowle discloses each "network location" which is equivalent to "endpoints" responses an IVE-GOT message providing specifics about the data it currently contains. The "data server" which is equivalent to "application server" then uses the data returned from the network location to determine whether all appreciate locations received the data, and start a new data distribution cycle: column 7, lines 18-31).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Crowle's ideas of responding an IVE-GOT message providing specifics about the data it currently contains with Kovarik's system in order to provide an

efficient distribution system such as reducing lost distribution data and distributing time: (column 2, lines 21-67)

Regarding claim 17:

Kovarik discloses the invention substantially as disclosed in claim 11, but does not explicitly teach a gateway receiving response data from the end point generated in response to the message

However, Crowle discloses each "network locations" which is equivalent to "endpoints" responses an IVE-GOT message providing specifics about the data it currently contains. The "data server" which is equivalent to "gateway" which uses the data returned from the network location to determine whether all appreciate locations received the data, and starts a new data distribution cycle: column 7, lines 18-31).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Crowle's ideas of responding an IVE-GOT message providing specifics about the data it currently contains with Kovarik's system in order to be able to indicate the status of communication.

Claim 15 is rejected under 35 U.S.C 103(a) as being un-patentable over Kovarik-Crowle in view of Miller et al. (U.S. 6,907,011)

Regarding claim 15:

Kovarik-Crowle discloses the invention substantially as disclosed in claim 14, but does not explicitly teach wherein the router controller further comprises a message timing system storing the message for a predetermined period of time

In analogous art, Miller discloses publish/subscribe system is achieved by quiescing data messages: (abstract, lines 1-14; column 2, lines 14-20)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Miller's ideas of quiesced distributing data messages Kovarik-Crowle's system in order to provide the quiesced routing network, see (Miller: column 2, lines 14-20)

(10) Response to Arguments

The examiner summarizes the various points raised by the appellant and addresses replies individually.

a) Appellant argued to claim 1 with respect to:

Kovarik fails to teach or suggest the following claimed limitations:

Distributing a message from an application server to one or more application layer routers through one or more first channels selected from a first channel layer, wherein the message is distributed to the one or more application layer routers in response to at least the one or more application layer routers registering with the application server to receive messages in accordance with configuration data of one or more endpoints;

Distributing the message from the one or more applications routers to the one or more endpoints through one or more second channels selected from a second channel layers, wherein the message is distributed to the one or more endpoints in response to at least the one or more endpoints registering with the one or more application routers to receive messages in accordance with the configuration data of the one or more endpoints

In reply to Appellant's arguments:

The Kovarik clearly teaches all limitations as disclosed in claim 1, such as, Kovarik discloses a message distribution system including "message publisher" which shares functionality with "application server" as claimed which distributes messages to "a message adapter/message subscribers" those are equivalent to "endpoints" as claimed through message routers; the Kovarik' message distribution system further includes a message topic server which contains list of registered message topics from message subscribers, a list of message publishers able to publish data messages consonant with registered message topics, and also a list of registered message routers so that the registered message routers can route messages from messages publisher to registered messages subscribers/message adapters based on registered messages topics, see (Kovarik: figure 1, items 100, 115, 110; abstract, lines 1-2; column 2, lines 22-54;; column 5, lines 13-54; column 10, lines 1-7; column 6, lines 13-20, lines 54-67; column 5, lines 45-54; column 2, lines 58-67). In Kovarik's system, message registered topics are registered with the message topic server from the message adapters/message subscribers through the registered message routers, see (column 6, lines 54-67; column 5, lines 25-54; column 7, lines 10-37; column 8, lines 36-60); Kovarik further discloses step of "selecting a suitable registered message router from a list of registered message routers from the message topic server" this process shares functionality with "selecting one or more first channels from a first channel layer;" then selected registered message router routes the message to desired registered message subscriber/message adapter in accordance with registered message topics, see (Kovarik: column 10, lines 26-38, lines 58-67; column 11, lines 1-2, lines 23-25, lines 44-52; column 7, lines 29-40; column 6, lines 20-21; column 7, lines 52-64)

b) Appellant argued to claim 1 with respect to:

Kovarik does not teach message topic server 125 distributes messages to application 105 via the message routers 115

In reply to Appellant's arguments:

Kovarik teaches method for distributing messages to application 105 from message publisher through selected registered message router 115 based upon registered message topics; the communications between those network components are managed by message topic server, see (figure 1, items 125, 115 and 105; figure 6, items 625, 615A, 615B, 615C, 610A, 610B, 610C; column 2, lines 42-48, 58-67).

c) Appellant argued to claim 1 with respect to:

Only messages that the application 105 receive are messages transmitted from other applications 105, not the message topic server 125; the message topic server 125 does not in fact transmit messages that are subsequently received by an application 105; and Kovarik does not teach message topic server 125 transmits a message to application 105 ("second channel" via the message routers 115 ("first channel")

In reply to Appellant's arguments:

Kovarik's messages distribution system includes message publishers distribute messages to applications 105 through registered message routers; the Kovarik' message distribution system further includes a message topic server which contains list of registered message topics from message subscribers/ applications 105, a list of message publishers able to publish data messages consonant with registered message topics, and also a list of registered message routers so that the registered message routers can route messages from messages publisher to registered message subscribers/ applications 105 based on registered messages topics, see (Kovarik: figure 1, items

100, 115, 110; abstract, lines 1-2; column 2, lines 22-54;; column 5, lines 13-54; column 10, lines 1-7; column 6, lines 13-20, lines 54-67; column 5, lines 45-54; column 2, lines 58-67).

d) Appellant argued claim 1 with respect to:

The kovarik fails to disclose the message topic server 125 transmits a message to a message router 115 ("first channel") that in turn transmits the message to an application 105 ("second channel")

In reply to Appellant's arguments:

The kovarik discloses message topic server used to allocate a suitable registered message router for routing message from message publisher to registered message subscribers/ applications 105 based on registered message topic; wherein the communication links between message publisher and registered message routers are interpreted as "first channel" and the links between the registered message routers to registered message subscribers/ application 105 share functionality with "second channel": (Kovarik: figure 1, items 125, 115 and 105; abstract, lines 1-2; column 2, lines 22-67; column 5, lines 13-54; column 10, lines 1-7)

e) Appellant argued to claim 1with respect to:

The kovarik fails to disclose method of distributing software

In reply to Appellant's arguments:

In response to applicant's arguments, the recitation "distributing software" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See

In re Hirao, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

f) Appellant argued to claim 11 with respect to:

Kovarik fails to teach the message topic server 125 distributes messages to application 105 via the message router 115

In reply to Appellant's arguments:

Kovarik teaches method for distributing messages to applications 105 from message publishers through selected registered message router 115 based upon registered message topics those are registered with message topic server 125; the communications between those network components are managed by message topic server 125, see (figure 1, items 125, 115 and 105; figure 6, items 625, 615A, 615B, 615C, 610A, 610B, 610C; column 2, lines 42-48, 58-67).

g) Appellant argued to claim 11 with respect to:

The Kovarik fails to teach a system in which a message topic server 125 transmits a message to a message router 115 ("first channel") that in turn transmits the message to an application 105 ("second channel")

In reply to Appellant's arguments:

The kovarik discloses message topic server used to allocate a suitable registered message router for routing message from message publisher to registered message subscribers/ applications 105 based on registered message topic; wherein the communication links between message publisher and registered message routers are interpreted as "first channel" and the links between the registered message routers to registered message subscribers/ application 105 share

functionality with "second channel": (Kovarik: figure 1, items 125, 115 and 105; abstract, lines 1-2; column 2, lines 22-67; column 5, lines 13-54; column 10, lines 1-7)

h) Appellant argued to claim 11 with respect to:

The kovarik fails to disclose method of distributing software

In reply to Appellant's arguments:

In response to applicant's arguments, the recitation "distributing software" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

i) Appellant argued to claim 6 with respect to:

The Kovarik does not disclose that the message is stored at router

In reply to Appellant's arguments:

Kovarik discloses method for selecting a suitable registered message router for routing message from message publisher to registered message subscribers/message adapters in according to registered message topic; although Kovarik does not explicitly disclose step of "storing" transmitting message at the registered message router; but it would have been obvious to a person of ordinary skill in the art to know that the transmitting message should be at least stored/saved/cached temporarily in the registered message router prior processing of transmitting message from the data publisher to the registered message subscribers/message adapters, see

(Kovarik: figure 1, items 125, 113, 110; abstract; column 2, lines 27-67; column 3, lines 18-31; column 4, lines 37-45; column 6, lines 25-31, 54-67)

j) Appellant argued to claims 4 and 5 with respect to:

The Datta does not teach wherein the application server distributes a message to one or more application layer routers through a first channel and one or more application layer routers distributes the message to distributes the message to one or more endpoints through one or more second channels selected from second channel layer. Because Datta fails to teach the limitation that is also taught by the Kovarik, the combination of the prior art references fails to teach or suggest all limitations of dependent claims 4 and 5

In reply to Appellant's arguments:

The limitation "wherein the application server distributes a message to one or more application layer routers through a first channel and one or more application layer routers distributes the message to distributes the message to one or more endpoints through one or more second channels selected from second channel layer" is taught by the Kovarik instead of the Datta; The Datta teaches shortcoming of the Kovarik as disclosed in dependent claims 4-5 such as "selecting based on the available data communication bandwidth; and selecting based on the available data processing capacity of the selected application router"

k) Appellant argued to claim 6 with respect to:

The kovarik does not teach storing the message at the selected application layer router; distributing the message to the endpoint ...after the occurrence of a predetermined event

In reply to Appellant's arguments:

Kovarik discloses method for selecting a suitable registered message router for transmitting message from message publisher to registered message subscribers/message adapters based upon registered message topic; although Kovarik does not explicitly disclose step of "storing" transmitting message at the registered message router; but it would have been obvious to a person of ordinary skill in the art to know that the message should be at least stored/saved/cached temporarily in the registered message router prior processing of transmitting message from the data publisher to the registered message subscribers/message adapters, see (Kovarik: figure 1, items 125, 113, 110; abstract; column 2, lines 27-67; column 3, lines 18-31; column 4, lines 37-45; column 6, lines 25-31, 54-67). In the Kovarik's system, the message publisher distributes messages to the selected registered message router for further routing message to desired registered message subscriber/message adapter based upon matching between request message with "registered message topic" which shares functionality with "predetermined event": (column 2, lines 21-67)

l) Appellant argued to claim 7 with respect to:

Datta does not teach distributing the message to the endpoint after the occurrence of a predetermined event; wherein the event is one or more group comprising an expiration of timer, the receipt of an event occurrence message, the receipt of a bandwidth availability message, and the receipt of a processor capacity availability message.

In reply to Appellant's arguments:

Examiner respectively reminds that the limitation "distributing the message to the endpoint after the occurrence of a predetermined event" is taught by the Kovarik instead of the Datta, please see explanations in session (k) for details

The limitation "wherein the event is one or more group comprising an expiration of timer, the receipt of an event occurrence message, the receipt of a bandwidth availability message, and the receipt of a processor capacity availability message" is rejected by combination of the Kovarik and the Datta, such as, Kovarik discloses the message distribution system wherein messages are distributed to registered message subscriber/message adapter when the message topic server determines if request message is at least one of "registered message topics" which shares functionality with "an event occurrence:" (column 2, lines 25-67); while Datta discloses packet synchronization protocol communication system involves with time-out conditions, see (column 2, lines 46-56); the Datta further discloses the controller software which manages communication links to the network through a group of routers. In order to select a suitable router from group of routers, the controller' decision is made based on the following factors e.g. router loads/ processor capacity/ and load balancing: (column 15, lines 54-67; column 16, lines 19-24; column 4, lines 41-67; column 5, lines 1-8, lines 19-21; column 8, lines 31-44)

m) Appellant argued to claim 9 with respect to:

Appellant indicates reasons for allowance claim 9 in according to allowance of claim 1

In reply to Appellant's arguments:

Claim 1 is not under allowance condition; claim 1 is rejected by Kovarik et al. (U.S. 7,020,717), please see rejections for claim 1 as disclosed in session (9) Grounds of Rejection for details

n) Appellant argued to claim 12 with respect to:

Appellant indicates reasons for allowance claim 12 in according to allowance of claim 11

In reply to Appellant's arguments:

Claim 11 is not under allowance condition; claim 12 is rejected by Kovarik et al. (U.S. 7,020,717), please see rejections for claim 11 as disclosed in session (9) Grounds of Rejection for details

0) Appellant argued to claim 13 with respect to:

The Crowle does not teach the limitation of claim 11, and because Crowle does not teach the limitation of claim 11, the combination of the prior art references fail to teach or suggest all limitations of independent claim 11; therefore, claim 13 is also allowable based on the inherited limitations of claim 11

In reply to Appellant's arguments:

Examiner respectively reminds that all limitations of independent 11 are rejected by the Kovarik et al. (U.S. 7,020,717) instead of the Crowle. The Crowle is used to reject the shortcoming of the Kovark. Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Examiner: Lan-Dai, Truong

AU, 2152

February 14, 2007

Conferees:

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER

WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100